

Iowa 111(d) Stakeholder Process Update

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- A. February 9, 2016: US Supreme Court issues a stay of the final EPA 111(d) Clean Power Plan rules regulating carbon dioxide emissions from existing power plants. The stay will remain in effect until the DC Circuit Court of Appeals issues a decision ruling whether the EPA rules are legal and, assuming the decision is appealed to the US Supreme Court, until the Supreme Court issues its decision.
- Five of the nine Supreme Court Justices supported granting the application for a stay and four justices would have denied the application. Justice Scalia was one of the five justices who supported granting the stay.
 - Justice Scalia died on February 13, 2016.
 - Oral argument on whether the rules are legal is scheduled for June 2 and 3, 2016, before a three-judge panel of the DC Court of Appeals.
 - We do not know when the DC Court of Appeals and the US Supreme Court will issue their decisions. Most likely scenarios would mean a US Supreme Court decision could be issued in either June of 2017 or June of 2018.
- B. February 22, 2016, Iowa 111(d) Stakeholder meeting in Council Bluffs:
- Presentations on Energy Efficiency and Evaluation, Measurement & Verification (EM&V)
 - Active stakeholder discussion of next steps for the Iowa 111(d) Stakeholder Process considering the US Supreme Court stay
 - The Iowa Department of Natural Resources (IDNR) drafted a proposed plan for the Iowa Stakeholder Process based on consensus items and requests for information from the February 22nd discussion.
- C. Following approval by Doug Hoelscher in the Governor's office, IDNR's Marnie Stein sent the following email to the stakeholder group on March 2, 2016:

Good afternoon,

Thank you all for your very important feedback on how Iowa's 111(d) Stakeholder Group should proceed given the Supreme Court's stay of the rule. Based on your feedback, we will hold the March 22nd meeting as scheduled, and it will focus on modeling from several groups.

The meeting will be **held in Des Moines** at the DNR Air Quality Bureau rather than Mason City. A call-in number and possible webinar option will be available for anyone that can't attend in person.

As the rule moves through the courts, we will do the following:

- Schedule another stakeholder meeting in the fall after the DC Circuit Court rules on the merits of the rule.
- DNR will keep the group updated on any work done by EPA on guidance documents, the proposed federal plan & model rules, the Clean Energy Incentive Program, etc.; litigation developments; regional discussions; what other states are doing.

- DNR and IUB staff will continue to participate in regional discussions led by the Midcontinent States Energy and Environmental Regulators (MSEER) if that process continues and keep stakeholders updated on that process.

Please call or email if you have questions. The agenda and call-in number will be sent out later next week and posted at www.iowadnr.gov/111d.

Sincerely,
Marnie Stein

- D. All activities specifically related to development of Iowa's 111(d) Initial Compliance Plan and request for a two-year extension, which had been due September 6, 2016, have been put on hold due to the Supreme Court stay.
 - Even if some other states decide to voluntarily submit Initial Compliance Plans to EPA by September 6, 2016, the stay prevents the EPA from taking any action on the plans.
- E. IUB Staff Environmental Team members will monitor the progress of the litigation and any EPA activities and update you as needed. I will attend the March 22 stakeholder meeting since it is in Des Moines. Board member Libby Jacobs will let us know whether the MSEER process will continue, and if it does, will update us as needed.